Appendix

United States Court of Appeals
for the Ninth Circuit

MORRIS TRIEBER, *Appellant,* vs. JOHN O. ENGLAND, Trustee in Bankruptcy of the Estate of Gayne Sales Co., Inc., a corporation, Bankrupt, *Appellee.*	No. 15,134 Sept. 5, 1956

Motion to dismiss the appeal.

Before: Denman, Chief Judge, Stephens and Hamley, Circuit Judges.

PER CURIAM:

Trieber objected to the summary jurisdiction of the bankruptcy referee to hear the trustee's petition for a turnover order. After a hearing on only the question of jurisdiction, the referee overruled Trieber's objection, and assumed jurisdiction to hear the petition on the merits. Trieber filed a petition in the district court to review the referee's order. The trustee moved to dismiss this petition, on the ground that the order of the referee was interlocutory and not final. The district court granted the motion to

dismiss, and remanded the cause to the referee for a hearing on the merits.

Trieber thereupon appealed to this court. The trustee has moved to dismiss the appeal, on the ground that this court lacks jurisdiction. Trieber argues that an interlocutory order made in a "controversy arising in proceedings in bankruptcy," as distinguished from an order made in "proceedings in bankruptcy," is not reviewable, citing 11 U.S.C.A. § 47 (a). It is asserted that this is such an order.

We agree. The order was entered in connection with a dispute between the trustee and an adverse claimant, concerning the right and title to the bankrupt estate. It was therefore an order made in a controversy arising in proceedings in bankruptcy, as that term is used in 11 U.S.C.A. § 47 (a). See *In re Christ's Church of the Golden Rule,* 172 F. (2d) 523. The order is concededly interlocutory in nature. It follows that this court lacks jurisdiction to review such order. *In re Christ's Church of the Golden Rule, supra.*

The motion to dismiss the appeal is ordered granted.

(Endorsed:) Per Curiam Opinion. Filed Sept. 5, 1956. Paul P. O'Brien, Clerk.

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JUDGMENT

Appeal from the United States District Court for the Northern District of California, Southern Division.

This cause came on to be heard on the Transcript of Record from the United States District Court for the Northern District of California, Southern Division, and on motion of Appellee to dismiss the appeal herein, and was duly submitted.

On consideration whereof, it is now here ordered and adjudged by this Court, that the motion to dismiss be, and hereby is granted, and that the appeal in this cause be, and hereby is dismissed.

(Endorsed) Judgment

Filed and Entered: September 5, 1956

Paul P. O'Brien, Clerk.

United States Court of Appeals
for the Ninth Circuit

Excerpt from Proceedings of Monday, October 8, 1956
Before: Denman, Chief Judge, Stephens and Hamley, Circuit Judges.

ORDER DENYING PETITION FOR REHEARING

On consideration thereof, and by direction of the Court, It Is Ordered that the petition of Appellant, filed October 1, 1956, and within time allowed therefor by rule of Court for a rehearing of the above cause be, and hereby is denied.